IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

**CWPs. No 1185 of 2004 & 81 of 2007.**
**Reserved on: 9th May,2007**
**Date of decision: July 6, 2007**

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**CWP No. 1185 of 2004**

Balbir Singh & another — Petitioner

Versus

State of H P & others — Respondents

**CWP No.81 of 2007**

Pawan Kumar — Petitioner

Versus

State of H P — Respondent

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*Coram:*

**The Hon'ble Mr.Justice Deepak Gupta, ACJ.**

**The Hon'ble Mr Justice Surinder Singh,J.**

*Whether approved for reporting ?*[1] *Yes.*

**For the Petitioners:** **M/S Vinay Kuthiala, Ramakant Sharma & Ms. Vandana Kuthiala, Advocates.**

**For respondent-Corporation:** **Mr H S Rawat, Advocate.**

**For Union of India:** **Mr .Sandeep Sharma, Asstt. Solicitor General of India.**

**For remaining respondents** **Mr M S Chandel, Advocate General, with Mr Ram Murti Bisht, Deputy Advocate General.**

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Surinder Singh, J.

Since common questions of law and facts are involved in the above petitions, with a view to avoid the repetition of law and facts, we propose to decide these petitions by this single common judgment.

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ? yes.***

ADMITTED FACTS

The petitioners are residents of Himachal Pradesh and owners of their respective transport vehicles.

The Director of Transport (respondent No.2) in CWP No.1185 of 2004, published the following notification (Annexure PB) in the daily issue of The Tribune dated 2nd February, 2004:

> "Government of Himachal Pradesh,
> Department of Transport
>
> Notice inviting applications for setting up Private Fitness Centres.
>
> As per the provisions of Motor Vehicles Act & Rules all Transport Vehicles are required to obtain a fitness certificate from an Authorized Fitness Center once in a year. The state Government proposes to license fitness centers in the private/semi Government Sector for issuing and renewal of fitness certificates. These fitness centers will be required to adhere to the provisions as contained in Rule 63 to 73 of the Central Motor Vehicles Rules, 1989 and instructions issued by the H P Government from time to time. Parties interested in setting up fitness centers may obtain detailed terms and conditions from the Director Transport on any working day.
>
> (Diljeet Singh) IAS
> Director Transport,
> Himachal Pradesh,
> Shimla 171004

Thereafter, Director Transport as a consequence of the above letter issued the terms and conditions of authorized testing stations vide letter

dated 4th February, 2004, which is reproduced hereunder:

"No.4-3(13)78-V-1382-
Directorate of Transport
H P Shimla 171004

To

1. The Managing Director,
HRTC, Shimla-3
2. Managing Director,
HPTDC, Shimla-9
3. Chairman, HPSEB, Kumar House,
Shimla-171004
4. Engineer in Chief PWD
US Club, Shimla.
5. Engineer in Chief,
Irrigation & Public Health,
US Club, Shimla,

Dated Shimla 171004, the 4th February, 2004

Subject: Application for Authorized Testing Station.

Sir,

As you are aware, all commercial vehicles like Buses, Trucks and Taxies are required to be inspected for fitness once in a year. Presently, this work of inspection is being done by the Motor Vehicles inspectors of the Department. However, in view of the increasing numbers of vehicles as also the fact that the Central Motor Vehicles Rules expressly provide for setting up of Authorized Fitness Centers in the private sector, it has been decided by the government that the Director Transport will solicit applications from interested parties including Government/Board Corporation workshops for licensing such centers. Accordingly in a press release with the following test was issued and published in newspapers:

"As per provisions of Motor Vehicles Act & Rules all Transport Vehicles are required to obtain a fitness certificate from an Authorized Fitness Center once in a year. The State Government proposes to license fitness centers in the private/semi Government sector for issuing and renewal of fitness certificates.

These fitness centers will be required to adhere to the provisions as contained in Rule 63 to 73 of the Central Motor Vehicles Rules, 1989 and instructions issued by the H P Govt. from time to time. Parties interested in setting up fitness centers may obtain detailed terms and conditions from the Director Transport on any working day.

You may like to consider making some of your workshops as the Authorized Fitness Centers.

Sd/
Director Transport
HP Shimla 171004"

The petitioners in CWP 1185 of 2004 had earlier approached this Court by filing CWP No.125 of 2004, which was disposed of on 13th April, 2004. Relevant portion of the order reads thus:

"What has happened as far as the respondents in this case are concerned, is that they have invited applications for licensing and fitness in the private/semi Government Sector for issuance and renewal of fitness certificate. We are not happy with the terminology used in the Notice inviting applications (Annexure PB) and we are saying so because the expression "fitness centers" used in the Notice perhaps is not at all in conformity with the terminology used and adopted in the Act and in the 1989 Rules. As far as the apprehensions of the petitioner are concerned we feel that these are presently unfounded and we are saying so because as and when the authorized service stations are appointed by the State Government in conformity with the Act and the Rules, the petitioners like any other owner of a transport vehicle should be at liberty to choose the

> authorized service station of their choice.
>
> Based on the aforesaid observations, we are quite confident that the State Government shall ensure that the issuance of letter of authority and the appointment of the authorized service stations (in public sector or in private sector) shall be strictly in conformity with the Act and the Rules. As far as the petitioners are concerned, at present they have no cause of action to maintain this petition but in future if they feel that a cause of action has indeed accrued to them, they shall be at liberty approach this court again. The petition is dismissed in limine."

In pursuance to the letter dated 4th February, 2004 supra, issued by the Director Transport, the respondent Managing Director, HRTC sent a letter dated 5th August, 2004 (Annexure PG) to the Director Transport, unmindful of the above order passed in CWP No.125 of 2004 by this Court expressing its intention to establish Authorized Testing Stations at its Divisional Workshops at Taradevi, Mandi and Jassur. The said letter was also accompanied with a list of equipment, which was allegedly available with the HRTC for the purpose of running testing stations at each of the Divisional Workshops mentioned above. The letter Annexure PG dated 5th August, 2004 reads as under:

Himachal Road Transport Corporation,Shimla-171003
No.1-6(14)/2004-05-passingh-w
To

The Director Transport,
Himachal Road Transport Corporation,
Shimla-171004
Dated, Shimla, the 05-08-2004

Sub: Authorized Testing Stations.

Sir,

Himachal Road Transport Corporation intends to have a letter of authority to establish authorized testing stations at Divisional Workshops Taradevi, Mandi and Jassur. The details of these Divisional workshops along with equipments available are enclosed.

It is therefore requested to issue a letter of authority in favour of Managing Director, HRTC to establish Authorized Testing Stations at Divisional Workshops Taradevi, Mandi and Jassur.

Yours faithfully,
Sd/
Managing Director,
HRTC,Shimla-171003

As a consequence the respondent Director Transport, issued a letter of authority, bearing No. 1/2004 dated 14.10.2004 in favour of the respondent Managing Director, for the establishment of a testing station under Section (2) of Section 56 of the Motor Vehicles Act, 1988 hereinafter to be referred as "the Act", at the Divisional Workshops at Taradevi, Mandi and Jassur, for the purpose of issuance and renewal of certificate of fitness to transport vehicles, subject to the provisions of the Act aforesaid and the Central Motor Vehicles Rules, 1989 (hereinafter referred as the 1989 Rules). The respondent No.2

Director Transport also issued guidelines (Annexure-PK) to be followed while issuing the certificate of fitness. The parameters to be followed were also laid down in this letter.

CASE OF THE PETITIONERS.

It is alleged that neither the respondent No.2 Director Transport could have authorized respondent No.3 aforesaid to start the testing stations without following the Rules and procedure, as laid down in the Motor Vehicles Act 1988 and the Rules framed thereunder, nor the guidelines issued are in conformity thereof.

In addition, in CWP No.81 of 2007 titled as *Pawan Kumar vs State of Himachal Pradesh* it is alleged that under Section 68 of the Act, the respondent-State is authorized to constitute, by notification, a State Transport Authority (STA) as well as Regional Transport Authority to exercise and discharge through out such Regions the powers and functions conferred on these authorities by the Motor Vehicles Act. Under Section 213 of the Act, the respondent-State is empowered to establish a Motor Vehicle Department and, appoint its officials. The Central Government and State Government have also been ascribed the power to make Rules under various statutory provisions of the Act. The State Government is specifically authorized to make rules in respect of Chapter IV for matters other than those specified in Section 64. Vide notification dated 6.5.2000 (Annexure P-3)the

respondent-State, reconstituted the Regional Transport Authorities (RTA) for Mandi, Shimla and Dharamshala, and respondent NO.2 was appointed as the Chairman of all the aforesaid three Regions. Similarly, vide Notification dated 9.5.2002 (Annexure P-4) he was also appointed as a Member of the State Transport Authority (STA). In the meanwhile, the officer holding the post of Managing Director, HRTC was given the additional charge of Director Transport vide notification dated 6.5.2006 (Annexure P-13). The Director Transport was already functioning as the Chairman of the RTA and Member of STA. Thus, after the officer holding the post of Managing Director, HRTC was given additional charge of the post of Director Transport, the factual position was that the Managing Director, HRTC functioned both as Director Transport as well as the Chairman of the RTA and Member of STA which is alleged to be contrary to Section 68 of the Act. It is further contended that with the additional charge of Director Transport-cum-Chairman RTA-cum-STA being given to the Managing Director, HRTC the respondent-State declared 20 Workshops of the Corporation as authorized ‘Testing Stations’ vide Annexure P-14 dated 23.11.2006 for the purpose of grant and renewal of certificates of fitness to the Transport Vehicles other than those belonging to HRTC. The aforesaid workshops were in addition to the three Divisional workshops already notified. It is contended that the authorization / declaration is illegal and the declaration has been made without ensuring whether the said workshops fulfill the statutory norms and specifications

stipulated in rule 63(3) of the 1989 Rules. It is alleged that in the facts and circumstances stated *supra*, the petitioners and other transport operators apprehend that they will be compelled to get their fitness certificates issued/renewed from the authorized testing stations of HRTC only. Since they are competitors of HRTC, they will be subjected to unnecessary harassment, prejudice and wastage of time. Further this apprehension of the petitioners was reinforced by the fact that even though the office of the Director Transport is yet to issue a letter of authority to HRTC in terms of notification dated 23.11.2006 (Annexure P-14), the Managing Director, HRTC has already issued instructions on 23.12.2006 (to all the Unit Officers in HRTC to issue and renew certificates of fitness to Transport vehicles vide Annexure P-15 with immediate effect.

It is also contended that the respondent-Managing Director is not only performing functions of the Director Transport and Chairman, RTA but has also taken unto himself the task of inspection and granting fitness certificates to vehicles of his competitors whereby grave prejudice and detriment would be caused to the petitioner and other owners of transport vehicles. It is strenuously urged that there is no arrangement of testing of vehicles and performing the statutory functions by the testing stations. The equipment at the workshops is obsolete, out dated and cannot even cater to vehicles owned by the HRTC which has a fleet of about 1700 buses. Most of the workshops are jam-packed with their own buses and there is no

vacant-space for inspection of the vehicles for the purpose of issuance / renewal of fitness certificate; and the workshops do not fulfill the requirement of Rule 63(3), hence are not eligible for obtaining letters of Authority for renewal / issuance of fitness certificates. Consequently, the petitioners have prayed for quashing of letter dated 14.10.2004 whereby the Director Transport has authorized the Managing Director, HRTC to establish Testing Station as Divisional Workshops at Tara Devi, Mandi and Jassur. These letters are challenged in both the petitions in CWP No. 81 of 2007. The petitioners have also challenged the order Annexure P-13 dated 6th May, 2006 whereby the Managing Director has been given the additional charge of Director Transport, HP and notification dated 23rd November, 2006 (Annexure P-14) whereby twenty (20) workshops of the HRTC have been declared to be Authorized Testing Stations and letter dated 23.12.2006 (Annexure P-15) sent by the Managing Director, HRTC to all the Unit Officers in Himachal Road Transport Corporation.

CASE OF THE RESPONDENTS

Though the respondents have admitted that the Managing Director of HRTC functioned both as Director Transport as well as the Chairman of the RTA but after realizing their mistake the respondents issued notification No. 1-15/73-DP-Apptt (2007) dated 7th April, 2007 (Annexure R-II) vide which Sh. Onkar Sharma, IAS was appointed as Director, Transport & Tourism. In view of this, the second relief claimed in

CWP No.81 of 2007 for quashing the appointment of Managing Director HRTC as Chairman, Regional Transport Authority and as Member, State Transport Authority has become Infructuous. Qua the other reliefs claimed, the respondents have categorically stated that 20 workshops of HRTC were declared as 'Authorized Testing Stations' vide Notification (Annexure R-3) dated 29.1.2007, after conducting inspection by a Committee, consisting of Regional Transport Officer (RTO) and Motor Vehicle Inspector (MVI) of the respective jurisdiction, regarding availability & functioning of equipment of all authorized workshops, it was found that inspection is done by the MVI's mainly manually/visually and no testing equipments are used to check the fitness of the vehicles. However, the petitioners along with other operators were at liberty to go for inspection of their vehicles either before the Board of Inspection or the Authorized Testing Stations but they were never compelled to get their vehicle fitness certificates issued/renewed from the Authorized Testing Stations of HRTC only. Respondents further submit that all the notified Authorized Testing Stations have started functioning.

QUESTION FOR DETERMIANTION PRESSED BEFORE US

1. Whether the notification Annexures PH, PI and PJ dated 14.10.2004 which are (Annexures P-10,P-11 and P-12 in CWP No.81 of 2007,) authorizing Managing Director HRTC, Mandi, Shimla and Jassur for the purpose of issue and renewal of certificate of fitness to Transport vehicles under the Motor Vehicles Act/Rules are legally sustainable?

2. Whether the notification No.TPT-A(9)1/2006 issued by Managing Director, HRTC on 23.11.2006 (Annexure P-14 in CWP No.81/2007) followed by letter Annexure P-15, declaring 20 Regional and Divisional Workshops of HRTC as authorized Testing Stations for the above purpose are legal?

OUR FINDINGS

We have heard the learned counsel for the parties and have examined the relevant provisions of the Act and Rules framed there under. The learned counsel for the parties during the arguments have supported their respective contentions.

On consideration of the facts, we are of the opinion that the petitioners have raised very most important questions of law and an issue of public interest with regard to the safety of passengers involved and simultaneously the petitioners have highlighted the mal-functioning of State Transport Department and various other functionaries created under the Motor Vehicles Act. Before entering into the factual aspects it would be pertinent to refer to the relevant provisions of the Act and the Rules framed thereunder.

Section 56 of the Act, deals with Certificate of fitness of transport vehicles, which reads as under:-

"56.**Certificate of fitness of transport vehicles**.-(1) Subject to the provisions of section 59 and 60, a transport vehicle shall not be deemed to be validly registered for the purposes of section 39, unless it carries a certificate of fitness in such form containing

such particulars and information as may be prescribed by the Central Government, issued by the prescribed authority, or by an authorized testing station mentioned in sub-section (2), to the effect that the vehicle complies for the time being with all the requirements of this Act and the rules made thereunder:

Provided that where the prescribed authority or the "authorized testing station" refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

(2) The "authorized testing station" referred to in sub section (1) means a vehicle service station or public or private garage which the State Government, having regard to the experience, training and ability of the operator of such station or garage and the testing equipment and the testing personnel therein, may specify in accordance with the rules made by the Central Government for regulation and control of such stations or garages.

(3) Subject to the provisions of sub section (4), a certificate of fitness shall remain effective for such period as may be prescribed by the Central Government having regard to the objects of this Act.

(4) The prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder' and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter V shall be deemed to be suspended until a new certificate of fitness has been obtained.

{Provided that no such cancellation shall be made by the prescribed authority unless such prescribed authority holds such technical

qualification as may be prescribed or where the prescribed authority does not hold such technical qualification on the basis of the report of an officer having such qualification.}

(5) A certificate of fitness issued under this Act shall, while it remains effective, be valid throughout India."

(Emphasis supplied)

It is seen that the object of this provision is that every transport vehicle should carry an effective certificate of fitness issued, by the prescribed authorities or by any authorized testing stations specified by the State Governments having regard to the essential qualifications, as mentioned in Section 56(2) of the Act as aforesaid. It also empowers the issuing authorities to cancel any such certificate if the vehicle fails to comply with the requirements of this Act. The certificate of fitness is effective throughout the country.

Rule 63 of the Central Motor Vehicles Rules, 1989 provides for regulation and control of authorized testing stations including the qualification of the applicant(s)and reads thus:-

"63 (1) No operator of an authorized testing station shall issue or renew a certificate of fitness to a transport vehicle under section 56 without a letter of authority in Form 39 granted by the registering authority.

(2) An application for grant of renewal of a letter of authority under sub-rule (1) shall be made in Form 40 to the registering authority having jurisdiction in the area in which the service station or garage is situated and shall be accompanied by.

(a) the appropriate fee as specified in rule 81;

(b) a security deposit of (rupees one lakh) in such manner as may be specified by the State Government.

Explanation: For the purpose of this rule and rules 64 to 72, the registering authority means an officer not below the rank of the regional transport officer of the Motor Vehicles Department established under section 213.

(3) A registering authority shall, when considering an application for the grant or renewal of a letter of authority, have regard to the following matters, namely-

(a) the applicant or/at least one of the members of the staff employed by him for the inspection of transport vehicles for the purpose of issue or renewal of certificate of fitness possesses the following minimum qualifications;_

(i) a (three years) diploma in automobile engineering or mechanical engineering or an equivalent qualification;

(ii) experience of minimum service of five years in an automobile workshop undertaking repairs of heavy goods vehicles, heavy passenger motor vehicles, medium motor vehicles and light motor vehicles;

(iii) a driving license to drive motorcycle, heavy passenger motor vehicle and heavy goods vehicle with a minimum driving experience of not less than five years;

(iv) thorough knowledge of the Act and the Rules made there under, especially the Chapters relating to registration of motor vehicles and construction, equipment and maintenance of motor vehicles;

(b) the premises where the authorized testing station is to be housed is either owned by the applicant or is taken on lease by him or is hired in his name and it has (minimum of one acre of land) for administrative section, reception room and (sanitary block and space for erection) of testing equipments and other apparatus;

(c) inspection lanes are provided adjacent to the building in the same compound or at other places approved by the registering authority;

(d) testing equipments and apparatus are installed in such manner that vehicles may pass through with ease and speed;

(e) the applicant maintains in good condition, the equipments and apparatus for undertaking test pertaining to (exhaust gas, engine tuning, engine analysis), smoke emission, brake system, head-lights, wheel alignments, compressors, speed motors and other like components.)

(f) the financial resources of the applicant are sufficient to provide for the continued maintenance;

(g) the applicant maintains an up-to-date copy of the Act, these rules and the concerned State Motor Vehicles Rules.

(4) The registering authority shall also, when considering an application under this rule, take into consideration the fact that the setting up of the authorized testing station will improve the availability of testing facilities in the area both in relation to the number of vehicles and proximity to such facilities.

(5) The registering authority may, on receipt of an application under sub-rule (2) and after satisfying himself that the applicant has complied with the requirements of sub-rules (3) and (4) grant or renew the letter of authority in Form 39.

Provided that no application for a letter of authority shall be effused by the registering authority unless the applicant is given an opportunity of being heard and reasons for such refusal are given in writing by the registering authority."

(Emphasis is ours)

Section 40 of the Motor Vehicles of the Act, lays down that every owner of a motor vehicle should get his vehicle registered by the Registering Authority in whose jurisdiction owner of the motor vehicle resides or has place of his business or where the motor vehicle is normally kept. Rule 49 of the

1989 Rules provides for registration records to be kept by the registering authority.

There is also a Board of Inspection for issuance of certificate of fitness, constituted under Rule 38 of the H P Motor Vehicle Rules, 1999 framed under section 56(2) of the Act, which reads as under:

> "38. **Board of Inspection for issue or renewal of certificate of fitness.**
>
> 1) The functions to grant or renew a certificate of fitness of a transport vehicle and all other functions which are - to be discharged by a prescribed authority under section 56 shall be performed by a Board of Inspection consisting of:-
>
> a) the registering authority concerned; and
>
> b) A Motor Vehicles Inspector appointed by the Government for this purpose.
>
> (1) In the event of a difference of opinion between the members of the Board of Inspection regarding the fitness of a vehicle, the decision of the Board of Inspection shall be deemed to be that the vehicle is not fit and an order shall be made in the name of the Board of Inspection refusing to grant or renew the certificate of fitness or cancelling the certificate of fitness.

Rule 39 of Rules 1999 lays down the procedure for issuance of renewal of the said certificate by the Board of Inspection, which is a statutory body under the said Rules. Rule 39 of the Rules 1999, is reproduced as under:

> (1) For the grant or renewal of a certificate of fitness, a transport vehicle shall be presented to the Board of Inspection or to an authorized testing station in whose functional area the vehicle is kept or

whose functional area includes the major portion of the route or area to which the permit of the vehicle extends.

Provided that the Board of Inspection or an authorized testing station shall keep in view, in addition to other matters, the design of vehicle to be of the type approved by the State Transport Authority for grant of a certificate of fitness.

(2) If owing to mechanical break down or other cause a transport vehicle is, at the time when the certificate expires, outside the functional area of the Board of Inspection or an authorized test in station by which the certificate is to be renewed, any other Board of Inspection or an authorized testing station may, without prejudice to any penalty to which the owner may have become liable, if the vehicle is in the opinion of the Board of Inspection or an authorized testing station fit for use by endorsement in HP Form XIII C F and subject to such conditions as the Board of Inspection or an authorized testing station may specify, authorize its continued use for such a time as may reasonably be necessary for the vehicle to return to the area of the Board of Inspection or an authorized testing station by which the certificate should be renewed. The vehicle may thereupon be driven to such area in accordance with such endorsement, but shall be used after return to the area until the certificate has been renewed."

Section 56 clearly postulates a situation where the fitness certificate has to be granted by the "prescribed authority" or by an Authorized Testing Station. Rule 63 of the Central Motor Vehicles 1989 clearly lays down that letter of authority in the form No.39 to "Authorized Testing Station" has to be issued

by the registering authority. Rule 33 of Rules 1999 provides that Licensing Authority as specified under rule 3 of the said Rules shall be the Registering Authority. Rule 3 lays down that every Sub Divisional Officer (Civil) shall be the Licensing Authority for the area or Sub Division of the District to which he is appointed. Therefore, for all intents and purposes, the Registry and Licensing Authority is one and the same. Rule 34 provides that Director Transport shall be the Appellate Authority for the purposes of Section 57. Therefore, it is clear that the Director Transport could not be Registering Authority for issuance of letter of authority to the Authorized Testing Stations.

It is thus clear that 20 workshops of the respondent-HRTC, declared to be Authorized Testing Stations vide Notification dated 23.11.2006 followed by letter dated 23.12.2006 as well as the notification dated 29.1.2007, are not authorized by the Registering Authority, as envisaged under the provisions of the Act and Rules. Therefore, all these notification and letters are held to be illegal having been issued without any lawful authority as envisaged under the relevant rules framed thereunder.

Rule 63 of the Central Motor Vehicles Rules which has been quoted in extenso hereinabove, provides all the criteria, which must be satisfied before any operator is declared to be an authorized Testing station. Rule lays down minimum qualification of the staff, it also lays down the para-meter for infrastructure to be provided for by the operator of

Authorized Testing Station. The mandatory conditions are that amongst the staff members, at least one member have diploma of three years in the automobile engineering or mechanical engineering and have minimum experience of five years in an automobile workshop undertaking repairs of heavy vehicles, at lest one member of staff should have a driving license to drive the various type of vehicles with driving experience not less than five years. Similarly, one member of the staff must have thorough knowledge of the Motor Vehicles Act and Rules.

Rule also provides that the Authorized Testing Stations should be housed in a area not less than one acre. The building should have administrative section, reception room, sanitary block etc. Rule also lays down inspection lanes are provided and testing equipment is installed as prescribed immediately. Surprisingly, Rules do not lay down any such condition with regard to Board of Inspection. Provision of Rule 63 is salutary in nature. These rules have been framed keeping in mind the larger public interest. We see no reason why the similar conditions should not be applicable to the “Board of Inspection”. The purpose of issuing of fitness certificate is to ensure that the vehicle is in proper shape and therefore, will not meet with an accident due to mechanical defect. We are dealing with the lives of human beings, who are to travel in these vehicles. The “Board of Inspection” consists of Registering Authority and Motor Vehicle Inspector. There is no reason why these two officers should not have the same facilities and equipment for

checking the vehicles. However, they do not have necessary equipments and facilities. They will do only visual checking which will endanger the lives of the citizens of this country. We are of the view that the provisions of Rule 63 would be applicable to the "Board of Inspection" also.

Of course, we are aware that all such facilities cannot be made available in shorter time, we therefore direct that the existing arrangement may continue till 31st March,2008. However, w.e.f. Ist April, 2008 the respondent-State shall ensure that at least 10 (ten) Authorized Testing Stations are set up around the headquarter of all the Districts in the State except Kinnaur and Lahul & Spiti. Since the new infrastructure is to be provided, we further direct that these Authorized Testing Stations should be set up atlest 10 KMs away from the District headquarter. The Authorized Testing Stations are bound to be crowded by the transport vehicles, therefore, they should be set up on the suitable sites away from the National State Highways with adequate land so that National State Highways are not clogged due to the parking of such vehicles. The respondent-State may either set up Authorized Testing Stations or it may even ask the HRTC or any private Operator to set up the Authorized Testing Station. The Authorized Testing Station, so set up must comply with the provisions of Rule 63 and the guidelines issued. We further direct that after Ist April, 2008 the "Board of Inspection", which the State may appoint will also have the necessary infrastructure as are

required by the Authorized Testing Stations. The petitions are disposed of accordingly.

CMPs No.1951/2004 in CWP No.185 of 2004
AND CMP No.149 of 2007 in CWP No.81 of 2007.

These applications do not survive in view of the order passed in the main writ petition(s). The applications are accordingly disposed of.

(Deepak Gupta),ACJ

July 6, 2007 (Surinder Singh),J.
(D)